

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

LARRY T. WARREN, ET AL,

PLAINTIFFS

V.

NO.4:96CV308-S-B

LARRY C. HARDY, ET AL,

DEFENDANTS

OPINION

This case is brought by several inmates of the Mississippi State Penitentiary¹ alleging that the defendants, who are the persons who administer the Administrative Remedy Program at the penitentiary, have wrongfully denied requests for administrative remedies, delayed acting on such requests, acted arbitrarily, and committed various other derelictions of their duty in wrongfully administering the program.

The Court of Appeals for the Fifth Circuit, *en banc*, has held that where a plaintiff class has successfully challenged the constitutionality of conditions at a state prison and the court has retained jurisdiction over the class action to assure that complete relief is obtained, individual suits by prisoners seeking equitable relief from conditions of confinement in that institution are precluded.

Separate individual suits may not be maintained for equitable relief from allegedly unconstitutional... prison conditions. To allow individual suits would interfere with the orderly administration of the class action and risk inconsistent adjudications. Individual members of the class and other prisoners may assert any equitable or declaratory claims they have, but they must do so by urging further action through the class representative and attorney, including contempt proceedings, or by intervention in the class action.

Gillespie v. Crawford, 858 F.2d 1101, 1103 (5th Cir. 1988).

Plaintiffs' complaints are general allegations of unconstitutional prison conditions rather than allegations of specific wrongs committed against them. As such, they are precluded by *Gillespie*, *id.*

The undersigned has long presided over the case of *Gates, et al v. Collier, et al*, No. GC71-6-S-D, a class action suit involving alleged unconstitutional conditions and practices in maintenance,

¹ The plaintiffs also ask for class certification for all current inmates as well as former inmates who were in the institution after April 18, 1994.

operation, and administration of the state penitentiary. This is an on-going class action in which many orders and decrees have been entered governing a wide range of conditions at the state penitentiary at Parchman. While much of the court supervision of the Mississippi Department of Corrections has been curtailed, *Gates* is still an active case on the court's docket.² Accordingly, the rule announced in *Gillespie v. Crawford, supra*, requires that all of plaintiff's claims for equitable relief, both temporary and permanent, be dismissed, but without prejudice to plaintiff's right to raise them in the *Gates* class action by either of the methods mentioned in *Gillespie*. For plaintiffs' convenience, the address of Ronald Reid Welch, Esq., plaintiff class attorney, is P.O. Box 4589, Jackson, MS. 39216.

A final judgment in accordance with this opinion will be entered.

THIS the _____ day of _____, 1996.

CHIEF JUDGE

²Although the state facilities portion of *Gates* was placed on the "inactive" docket by an order dated October 17, 1990, that does not mean that the case is closed. There were provisions made in that order for returning that portion of the case back to the active docket of the court with which class counsel, Ronald R. Welch, is aware and available to assist plaintiffs.